

Before the
Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

ARCH COMMUNICATIONS GROUP, INC.
and PAGING NETWORK, INC.

) WT Docket No. 99-365
) File No. 0000053846, *et al.*
) DA 99-3028

For Consent to Transfer Control of Paging,
Narrowband PCS, and Other Licenses)

To: Chief, Wireless Telecommunications Bureau

**REPLY TO OPPOSITION TO PETITION FOR
RECONSIDERATION OR INFORMAL COMPLAINT**

Metrocall, Inc. ("Metrocall"), by its attorneys and pursuant to Section 1.45(c) of the Commission's Rules, 47 C.F.R. § 1.45(c); hereby replies to the Opposition to Metrocall's Petition for Reconsideration or Informal Complaint (the "Petition") filed by Arch Communications Group, Inc. ("Arch") on September 22, 2000 (the "Opposition").¹ In support hereof, the following is respectfully shown:

I. The Commission has Authority to Review the Petition.

Arch argues that the Petition is procedurally defective and must be dismissed because it has been filed past the thirty-day period specified by Section 405 of the Communications Act of 1934, as amended (the "Act"). See Opposition at 2-5. Contrary to Arch's assertions, the Commission does not lack authority to revisit previous grants, even after the reconsideration period has ended. Regardless of the "finality" of a decision, the Commission retains its plenary power over spectrum licensing, and where material facts relevant to the basis for a grant subsequently are disclosed to the Commission, it has both the authority and the duty to act. See, e.g., Communications and Control, Inc., 15 FCC Rcd. 5428, n.37 (2000) (FCC has authority to set aside grants made

¹ Capitalized terms not otherwise defined herein will have the meaning ascribed to them in the Petition.

through inadvertent error); Brandywine Main-Line Radio, Inc., 60 FCC 2d 755 (1976) (petition for reconsideration filed three years after decision on appeal would be treated as request that the Commission ask the Court of Appeals to recall its mandate; allegations of improper Executive Branch influence in renewal proceeding considered); Central Alabama Broadcasters, Inc., 48 FCC 2d 998, ¶ 3 (1974) (untimely petition considered where it raised character qualifications issues).

Consequently, even assuming arguendo that Metrocall's Petition did not comport with any of the procedures for petitions for reconsideration or informal complaints,² the Commission nonetheless has an obligation to review new facts not disclosed in connection with its prior approval, especially where such new facts demonstrate violations of the Act or the Rules, or raise serious public interest considerations. See, e.g., Central Alabama Broadcasters, supra. In this case, Arch's lenders proposed to take the extraordinary step of requiring the future licensee of PageNet's facilities to sell specified FCC licenses. Arch and PageNet's Amended Plan, as presented to the Bankruptcy Court on September 7, 2000, clearly stated that the SMR licenses were to be sold. See Petition at Exhibit One. Only after Metrocall pointed out the transfer of control issues inherent in allowing lenders to designate the disposition of FCC licenses (including the timing and minimum purchase price for that disposition), did Arch twice revised the

² Arch argues that Metrocall has filed the Petition for purposes of delay. See Opposition at Section III. This contention is specious. The Bankruptcy Court will not hold its confirmation hearing on the Amended Plan until October 26, 2000; the Arch/PageNet merger could not close before then in any event. Moreover, PageNet does not contemplate closing on the merger until November of 2000 at the earliest. See Amended Disclosure Statement at Sections III.F. and III.H. Moreover, as Arch notes, the Commission's approval became "final" on June 5, 2000, more than a month before the institution of PageNet's Chapter 11 proceeding; Arch and PageNet could certainly have closed promptly upon finality, but apparently chose not to do so. Nonetheless, in light of PageNet and Arch's newly-expressed insistence upon closing, and because of the current posture of the case before the Bankruptcy Court, Metrocall is concurrently filing a motion for stay. Arch further suggests that Metrocall is seeking to further weaken PageNet, to make it "a less viable competitor." Opposition at 12. That is utter nonsense. As Arch itself notes, Metrocall has been seeking to *acquire* PageNet; Metrocall thus has no motive whatsoever to attempt to diminish PageNet's value as a going concern.

Amended Plan to include language which purportedly gave it greater discretion in raising the \$110 million required to meet its lenders' repayment demands. See Petition at Exhibits Two and Three. Similarly, the Final Order Authorizing Debtors In Possession to Enter into Post-Petition Financing ("DIP Financing Order"), also dated as of September 7th, grants liens on all of PageNet's assets, "including, without limitation, all ... licenses" to the Arch/PageNet lenders. See DIP Financing Order, pertinent portions of which are attached to hereto as Reply Exhibit One, at ¶ 8. It thus appears the Bankruptcy Court was asked to, and did grant, security interests in and liens on FCC licenses, without notice to the FCC and contrary to applicable FCC precedent.

To date, and presumably relying on Paragraph 17 of the DIP Financing Order (which requires any challenges to the liens granted in the DIP Financing Order, to be commenced within 60 days from the appointment of the Committee), neither PageNet nor the banks have sought to amend the grant language contained in Paragraphs 8 and 10 of the DIP Financing Order to exclude FCC licenses from the definition of "Post-Petition Collateral." Thus, the revisions to the credit facility on which Arch will rely to consummate its merger with PageNet, which in at least one version *required* the divestiture of FCC licenses, and the liens granted to the banks under the DIP Financing Order, at a minimum, warrant further investigation. See, e.g., Edwin A. Bernstein, 6 FCC Rcd. 6841 (Rev. Bd. 1991) (supplemental hearing ordered where successful applicant had failed to disclose change in lender and financing plans).

II. The Petition Raised Material and Substantial Questions Concerning a Possible Unauthorized Transfer of Control.

It has long been recognized that an entity's control over a licensee's finances may give that entity control over the licensee. See, e.g., KOWL, Inc., 49 FCC 2d 962, ¶ 4 (Rev. Bd. 1974), quoting Heitmeyer v. FCC, 95 F.2d 91, 99 (D.C. Cir. 1937) ("[i]t is well

known that one of the most powerful and effective methods of control of any business, organization, or institution, and one of the most potent causes of involuntary assignment of interests, is the control of finances”). Metrocall respectfully submits that the provisions of the Arch credit facility, together with the language of the DIP Financing Order granting such lenders liens in, among other assets, PageNet’s FCC licenses, to secure both post-petition and pre-petition claims of such lenders,³ Reply Exhibit One at ¶¶ 8 and 10, have crossed the line that separates legitimate lender protections from unauthorized transfers of control.

Arch argues that, in many cases in which the issue of control has arisen in connection with a licensee’s creditors, the Commission has found certain creditor protection provisions to be permissible. Opposition at 7-8. Yet, Arch cites no case, and Metrocall has been unable to find one, in which lenders to an FCC licensee have shown such disregard for Section 310(d) of the Act particular FCC-licensed assets that the licensee must sell, as well as dictate the timing and price for that sale. Moreover, in Arch’s case, the SMR license sale obligations imposed by its lenders were not triggered by any default in Arch’s loan payment obligations; this mandatory sale is a far cry from standard loan covenants that the FCC has previously approved. The first version of the Amended Plan presented to the Bankruptcy Court by PageNet and Arch presented facts far more egregious than those in the cases where various lender protections have been found to be permissible.⁴

³ The Commission has repeatedly held that direct security interests in licenses are unlawful. See, e.g., Walter O. Cheskey, 13 FCC Rcd. 10656, ¶ 7 (1998).

⁴ Indeed, in News International, PLC, 55 RR 2d 945, ¶ 21 (1984), among the factors the Commission relied upon in finding the agreements among the parties to be legitimate investor protections was the fact that “Warner [the minority investor] cannot compel BHC [the licensee corporation] to make major transactions.” That ability to “compel...major transactions” is precisely the power that the credit facility proposed to grant to Arch’s lenders.

As the case law demonstrates, determinations of “control” are inherently fact-based inquiries, that must be evaluated on a case-by-case basis. See, e.g., Daniel Forestall, 8 FCC Rcd. 884, ¶ 12 (Vid. Ser. Div. 1993); Arthur A. Cirilli, 3 FCC 2d 893, ¶ 9 (Rev. Bd. 1966) It should be noted that nowhere in its Opposition does Arch state that the decision to dispose of the SMR licenses, as proposed to the Bankruptcy Court in the first version of the Amended Plan, was made by Arch, rather its secured creditors. Indeed, Arch does not even attempt to explain its apparent willingness, as evidenced by that first version of the Amended Plan, to permit its lenders to decide what should be done with its licenses.

Despite the subsequent revisions to the Amended Plan, the evidence suggests that Arch and its lenders considered the SMR licenses as collateral to be liquidated for the partial repayment of Arch’s borrowings. Attached hereto as Reply Exhibit Two is a copy of the pertinent page of the Response of the Official Committee of Unsecured Creditors (the “Committee”) in Opposition to Metrocall’s Amended and Restated Plan (the “Committee Response”), in which the Committee explains the meaning of the credit facility provisions Metrocall has challenged. According to the Committee, Arch’s banks perceive that Metrocall’s offer, rather than the proposed Arch credited facility, would devalue “their collateral (the SMR Spectrum)”. See Reply Exhibit Two.

It thus appears that the subsequent versions of the Amended Plan, each of which purported to give Arch progressively more discretion in the manner in which it repaid its banks \$110 million, were simply attempts to “spin” the facts in a manner that would be palatable to this Commission. See Petition at Exhibit One through Exhibit Three. Not only do the banks perceive “the SMR Spectrum” as “their collateral,” but a number of

creditors have apparently convinced the Bankruptcy Court to treat all of PageNet's licenses as collateral. See Reply Exhibit One.

Arch was thus apparently ready to cede control over a major policy decision – the decision to sell more than 120 licenses which would collectively comprise multiple local SMR systems and a ubiquitous nationwide network on one frequency block, as well as the terms on which that sale would occur – to institutional lenders, without any disclosure to the Commission, and to permit those lenders to dictate the disposition of their “collateral” as though Arch had already defaulted on its payment obligations.

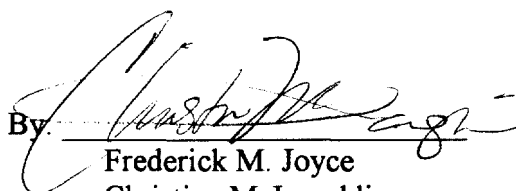
A lender need not exercise control over the day-to-day operations of a debtor company; if the lender has the power to interfere sufficiently with the licensee's policy or financial decisions, it may have crossed the line that separates a *bona fide* creditor from an undisclosed real party in interest. See, e.g., SaltAire Communications, Inc., 8 FCC Rcd. 6284 (1993) (impermissible control found where due to noteholders' rights to earnings and assets, and requirements for noteholder consent, applicant would be unable to sell additional stock “as a practical matter”). The designation by lenders of FCC licenses to serve as “collateral” for the partial, pre-default repayment of a licensee's borrowings, or the inclusion of repayment terms that “as a practical matter” left the licensee with little or no choice but to divest such licenses as the lenders consented to be sold, crossed that line. Together with the grant of liens in favor of various lenders on all of PageNet's licenses in the DIP Financing Order, without objection from the current or prospective licensees or notice to the Commission, the control granted to Arch's lenders by the credit facility terms cannot be viewed as an isolated lapse. Rather, the record demonstrates, at best, a disturbing disinterest on the part of Arch as to who controls the disposition of numerous FCC licenses.

Conclusion.

For all the foregoing reasons, Metrocall respectfully requests that the relief requested in its Petition be granted.

Respectfully submitted,

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October 4, 2000

REPLY EXHIBIT ONE

ORIGINAL

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:)	Chapter 11
)	
PAGING NETWORK, INC., et al.,)	Case No. 00-03098 (GMS)
)	
Debtors.)	Jointly Administered

**FINAL ORDER AUTHORIZING DEBTORS IN POSSESSION TO
ENTER INTO POST-PETITION FINANCING AGREEMENT AND
OBTAIN POST-PETITION FINANCING PURSUANT TO SECTIONS 363 AND 364
OF THE BANKRUPTCY CODE AND PROVIDING ADEQUATE PROTECTION
AND GRANTING LIENS, SECURITY INTERESTS AND SUPERPRIORITY CLAIMS**

Upon the motion (the "Motion") dated July 24, 2000 of Paging Network, Inc. (the "Parent Corporation"), PageNet, Inc., Paging Network Finance Corp., Paging Network of America, Inc., Paging Network of Colorado, Inc., Paging Network of Michigan, Inc., Paging Network of Northern California, Inc., and Paging Network of San Francisco, Inc. (collectively, the "Debtors"), as debtors and debtors-in-possession, for the entry of an Order authorizing them to (i) obtain post-petition financing pursuant to Sections 363 and 364 of the United States Bankruptcy Code (the "Bankruptcy Code") by entering into a certain post-petition financing agreement with the several lenders and the letter of credit issuing bank from time to time parties thereto (collectively, the "Post-Petition Lenders") and Bank of America, National Association, as Documentation Agent (in such capacity, the "Documentation Agent"), Toronto Dominion (Texas), Inc., as Administrative Agent (in such capacity, the "Administrative Agent") and Chase Securities, Inc. and Fleet National Bank, as Co-Syndication Agents (in such capacities, the "Co-Syndication Agents" and together with the Documentation Agent and the Administrative Agent, collectively, the "Post-Petition Agents"), subject to the terms and conditions set forth herein and therein, (ii) grant mortgages, security interests, liens and superpriority claims to the

(d) All amounts applied to the payment of the Post-Petition Loans and the Pre-Petition Indebtedness shall be applied thereto in the manner set forth in the relevant Post-Petition Financing Documents and Pre-Petition Credit Agreement, as the case may be. All amounts applied to the payment of the Designated Post-Petition Loans shall be applied thereto in the same manner as set forth in the Pre-Petition Credit Agreement for the Pre-Petition Indebtedness. All amounts applied to the payment of the Adequate Protection Obligations shall be applied thereto in the same manner as set forth in the Pre-Petition Credit Agreement for the Pre-Petition Indebtedness.

7. Except as expressly set forth herein, payment of the Pre-Petition Indebtedness, the Designated Post-Petition Loans and Adequate Protection Obligations shall be subordinated to the full and final payment of the Post-Petition Loans. Without limiting the generality of the foregoing, and except as expressly set forth herein, unless and until all outstanding Post-Petition Loans are indefeasibly paid in full in cash, all other amounts due and owing under the Post-Petition Financing Documents are indefeasibly paid in full in cash (including, without limitation, the Letter of Credit Liability) and the Post-Petition Credit Agreement and all commitments therein are terminated, under no circumstances shall any holder of Pre-Petition Indebtedness, Designated Post-Petition Loans or Adequate Protection Obligations have, with respect thereto, any enforcement rights against, or with respect to, the Pre-Petition Collateral or Post-Petition Collateral or any other rights or remedies that may interfere with or otherwise restrict the rights and remedies of the Post-Petition Agents and the Post-Petition Lenders hereunder, under the other Post-Petition Financing Documents or otherwise with respect to the Post-Petition Credit Agreement.

8. As security for all loans, advances and any other indebtedness or obligations, contingent or absolute which may now or from time to time hereafter be owing by

the Debtors to the Post-Petition Agents or the Post-Petition Lenders hereunder or under any of the other Post-Petition Financing Documents (all such loans, advances, indebtedness or obligations, but in all events excluding the Designated Post-Petition Loans and Adequate Protection Obligations, the "Post-Petition Loans"), the Documentation Agent is hereby granted for the sole benefit of the Post-Petition Agents and the Post-Petition Lenders valid, binding, enforceable and perfected Liens (the "Post-Petition Liens") in all currently owned or hereafter acquired property and assets of the Debtors and of Vast of any kind or nature, whether real or personal, tangible or intangible, wherever located, now owned or hereafter acquired or arising and all proceeds, products, rents and profits thereof, including, without limitation, all cash, goods, accounts receivable, inventory, cash-in-advance deposits, real estate, machinery, equipment, vehicles, trademarks, trade names, licenses, causes of action, rights to payment including tax refund claims, insurance proceeds and tort claims, ^{other than} ~~actions for preferences,~~ fraudulent conveyances, and other avoidance power claims and any recoveries under Sections 506(c), 542, 544, 545, 547, 548, 549, 550, 552(b) and 553 of the Bankruptcy Code) and the proceeds, products, rents and profits of all of the foregoing (all of the foregoing, the "Post-Petition Collateral"), in each case (i) subject only to the Carveout and to any valid, binding, enforceable and perfected Liens existing in the Post-Petition Collateral on the Petition Date (the "Senior Pre-Petition Liens"), other than the Lenders' Pre-Petition Liens and (ii) senior and superior pursuant to Section 364(d) of the Bankruptcy Code to the Lenders' Pre-Petition Liens, the Designated Post-Petition Liens, the Adequate Protection Liens and all other present and future Liens in and to the Post-Petition Collateral other than Senior Pre-Petition Liens (such other Liens collectively, the "Other Liens").

9. As security for all Designated Post-Petition Loans from time to time owing by the Debtors to the Pre-Petition Agents or the Pre-Petition Lenders, the Documentation

Agent is hereby granted for the sole benefit of the Pre-Petition Lenders and the Pre-Petition Agents as holders of the Designated Post-Petition Loans valid, binding, enforceable and perfected Liens (the "Designated Post-Petition Liens") in all Post-Petition Collateral (other than actions for preferences, fraudulent conveyances, and other avoidance power claims and any recoveries under Sections 506(c), 542, 544, 545, 547, 548, 549, 550, 552(b) and 553 of the Bankruptcy Code) (a) subject only to (i) the Post-Petition Liens and (ii) the Carveout and any Senior Pre-Petition Liens, and (b) senior and superior pursuant to Section 364(d) of the Bankruptcy Code to the Other Liens, the Adequate Protection Liens and the Lenders' Pre-Petition Liens.

10. As adequate protection in accordance with Sections 363(e) and 364(d) of the Bankruptcy Code, (a) the Debtors shall pay to the Administrative Agent, for the benefit of the Pre-Petition Lenders, interest on the outstanding amount of the Pre-Petition Indebtedness at the applicable Interbank Rate (as defined in the Pre-Petition Credit Agreement) for one month Interest Periods (as defined in the Pre-Petition Credit Agreement) plus the Applicable Margin (as defined in the Pre-Petition Credit Agreement) on each Monthly Payment Date (as defined in the Post-Petition Credit Agreement) and (b) the Documentation Agent is hereby granted for the sole benefit of the Pre-Petition Lenders (including Pre-Petition Lenders that are also Post-Petition Lenders) valid, binding, enforceable and perfected Liens (the "Adequate Protection Liens") in all Post-Petition Collateral (other than actions for preferences, fraudulent conveyances, and other avoidance power claims and any recoveries under Sections 506(c), 542, 544, 545, 547, 548, 549, 550, 552(b) and 553 of the Bankruptcy Code) to secure an amount of Pre-Petition Indebtedness equal to the sum (the "Adequate Protection Obligations") of, without duplication (i) the aggregate diminution, if any, subsequent to the Petition Date, in value of the Pre-Petition Collateral, whether by depreciation, use, sale, loss, decline in market price or otherwise (other

than by payment of the Pre-Petition Indebtedness which is not secured by the Adequate Protection Liens) and (ii) the sum of the aggregate amount of all cash proceeds of Pre-Petition Collateral and the aggregate fair market value of all non-cash Pre-Petition Collateral which is applied in accordance with this Order or otherwise in payment of the Post-Petition Loans, Designated Post-Petition Loans, previously created Adequate Protection Obligations or any other obligations or expenses of the Debtors (other than the Pre-Petition Indebtedness) which are not secured by the Adequate Protection Liens. The Adequate Protection Obligations shall be allocated pro rata to the Pre-Petition Indebtedness. The Adequate Protection Liens are (a) subject only to (i) the Post-Petition Liens, (ii) the Carveout and any Senior Pre-Petition Liens, and (iii) the Designated Post-Petition Liens, and (b) senior and superior pursuant to Section 364(d) of the Bankruptcy Code to the Other Liens and the Lenders' Pre-Petition Liens.

11. Except as expressly set forth in this Order, the Liens granted in this Order shall not be (i) subject to any Lien which is avoided and preserved for the benefit of the Debtors' estate under Section 551 of the Bankruptcy Code or (ii) subordinated to or made pari passu with any other Lien under Section 364(d) of the Bankruptcy Code or otherwise. As used in this Order, "Carveout" means (i) the unpaid fees of the clerk of the Bankruptcy Court or District Court, as applicable, and of the United States Trustee pursuant to 28 U.S.C. § 1930(a) and (b), and (ii) the aggregate allowed unpaid fees and expenses payable under Sections 330 and 331 of the Bankruptcy Code to professional persons retained pursuant to an order of the Court by the Debtors or any statutory committee appointed in the Chapter 11 cases (other than the fees and expenses, if any, of any professional persons retained by any such statutory committee incurred, directly or indirectly, in respect of, arising from or relating to, the initiation or prosecution of any action for preferences, fraudulent conveyances, and other avoidance power claims against the Lenders), not to exceed \$1,000,000 in the aggregate. So long as no Default or Event of Default

16. The automatic stay extant under Section 362(a) of the Bankruptcy Code shall be, and it hereby is, modified to the extent necessary to permit the Agents for the sole benefit of the Lenders to receive, collect and apply payments and proceeds in respect of the Pre-Petition Collateral and the Post-Petition Collateral in accordance with the terms and provisions of this Order and the other Post-Petition Financing Documents.

17. Notwithstanding anything herein or in the other Post-Petition Financing Documents, the Debtors shall no longer, pursuant to this Order, the other Post-Petition Financing Documents, or otherwise, be authorized to borrow funds hereunder or under the other Post-Petition Financing Documents or to use Cash Collateral or any proceeds of the Post-Petition Loans or Designated Post-Petition Loans already received (and any obligation of the Lenders to make loans or advances or issue Letters of Credit hereunder or under the other Post-Petition Financing Documents shall be terminated) upon the earliest to occur of any of the following events (any such event shall be referred to as a "Termination Event" and the date of any such event shall be referred to as the "Termination Date"):

(i) material non-compliance by the Debtors with any of the terms or provisions of this Order;

(ii) any Event of Default shall have occurred and be continuing beyond any applicable cure period, and any notice required pursuant to the Post-Petition Financing Documents to cause the Post-Petition Loans to become due and payable shall have been given;

(iii) the Consummation Date (as defined in the Post-Petition Credit Agreement); and

(iv) November 30, 2000.

Notwithstanding the occurrence of the Termination Date or anything herein, all of the rights, remedies, benefits and protections provided to the Agents and the Lenders under this Order shall survive the Termination Date. Subject to the last sentence of paragraph 12 hereof,

upon the Termination Date, the principal of and accrued interest and fees and all other amounts owed to the Agents or the Lenders hereunder or under the other Post-Petition Financing Documents shall be immediately due and payable and the Agents and the Lenders shall have all other rights and remedies provided in the Post-Petition Financing Documents. Notwithstanding anything herein to the contrary, no Post-Petition Loans, Designated Post-Petition Loans or any proceeds of Pre-Petition Collateral or Post-Petition Collateral or Letters of Credit (collectively, "Lender Funds") may be used by the Debtors, any official committee of unsecured creditors or any other person or entity to object to or contest in any manner, or raise any defenses to, the validity, perfection, priority or enforceability of the Pre-Petition Indebtedness or the Lenders' Pre-Petition Liens, or to assert any claims or causes of action against any of the Pre-Petition Lenders or any of the Pre-Petition Agents; without limitation of the foregoing, (i) at no time shall any such committee or other person or entity have the right to use Lender Funds to prosecute any such claims, causes of action, objections, contests or defenses (collectively, "Claims and Defenses"), (ii) any such committee or other person or entity shall have the right to assert Claims and Defenses only in an action commenced in this Court on or before the 60th day following the appointment of the Creditors' Committee, (iii) if no such action is commenced on or before such date, all Claims and Defenses shall be deemed, immediately and without further action by the Agents or the Lenders, to have been forever relinquished and waived as to such committee or other person or entity and (iv) the terms of this Order pertaining to the granting of Liens and Superpriority claims for, and the repayment of, Pre-Petition Indebtedness, Designated Post-Petition Loans and Adequate Protection Obligations shall be without prejudice to the right of any such committee or other person or entity to commence and prosecute Claims and Defenses as set forth in this proviso; provided, further, that as to the Debtors, all such Claims and Defenses are hereby relinquished and waived as of the Effective Date.

REPLY EXHIBIT TWO

Committee agreed, among other things, to oppose any motion to terminate exclusivity so that the Arch plan could go forward without distraction or delay.

20. Metrocall's efforts to obtain the support of PageNet's secured banks with the offer of a \$100 million paydown failed. The banks viewed Metrocall's proposal as merely a paydown from the proceeds of their collateral (the SMR Spectrum). Instead of supporting Metrocall, the banks obtained from Arch a covenant to pay \$110 million within a year *after* the closing of the Arch/PageNet merger. Although fulfilling this covenant could involve the sale of SMR licenses (or other FCC licenses), it made any FCC approval of such sale a *post-closing* event and did not threaten the timing of the Arch/PageNet merger. Although Metrocall has since filed an informal complaint with the FCC asserting that Arch's agreement violates the Communications Act, Metrocall did not ask the FCC to enjoin the Arch/PageNet merger.

21. On September 7, 2000, Metrocall informed the Court and the Committee that it was not able to obtain financing in connection with its September 5 Proposal. Metrocall's motion to terminate exclusivity was dismissed, without prejudice. Metrocall stated that it would be filing a new motion to terminate exclusivity. The parties agreed, and the Court approved, 4 :00 p.m. on September 18, 2000 as the deadline for Metrocall to file any new motion to be heard on October 5, 2000.

22. On September 7, 2000, the Court entered an order approving the Debtors' first amended disclosure statement. The Committee submitted for inclusion in the disclosure statement a letter recommending that all Class 5 creditors vote in favor of the Plan.

Metrocall's September 18 Proposal,

CERTIFICATE OF SERVICE

I, Veronica Blakeney, a secretary with the law firm of Alston & Bird LLP, hereby certify that on the 4th day of October, 2000, I caused to be served the foregoing Reply by hand-delivery (unless otherwise noted), upon the following:

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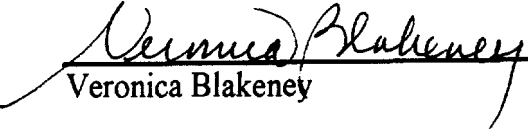
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